

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF PENNSYLVANIA

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|--------------------------|---|------------------|
| UNITED STATES OF AMERICA |) | CR. NO. 1:24-CR- |
| |) | |
| v. |) | (Judge) |
| |) | |
| FROCK BROTHERS |) | |
| TRUCKING, INC., |) | |
| Defendant. |) | |

INFORMATION

THE UNITED STATES ATTORNEY CHARGES:

I. Introduction

At times material to this Information:

A. Emission Systems and Regulations

1. Congress enacted the Clean Air Act (CAA) "to protect and enhance the quality of the Nation's air resources so as to promote the public health and welfare and the productive capacity of its population." 42 U.S.C. § 7401(b)(1). In enacting the Clean Air Act, Congress found that "the increasing use of motor vehicles ... has resulted in mounting dangers to the public health and welfare." 42 U.S.C. § 7401(a)(2). Congress instructed the Environmental Protection Agency (EPA) to establish regulations and standards to control emissions from motor vehicles which cause or contribute to air pollution which may reasonably be

anticipated to endanger public health or welfare. 42 U.S.C. § 7521(a)(1).

2. The CAA defines a "motor vehicle" as "any self-propelled vehicle designed for transporting persons or property on a street or highway." 42 U.S.C. § 7550; see also 40 C.F.R. § 85.1703 .17. For any new motor vehicle or motor vehicle engine, the manufacturer is required to certify to EPA that any emission control system incorporated in a motor vehicle or motor vehicle engine does not emit air pollutants in excess of applicable regulations.

3. Vehicles emit an array of pollutants, and EPA emission standards control the allowable emission levels of nitrogen oxides (NO_x), hydrocarbons, carbon monoxide, carbon dioxide, particulate matter, and certain toxic chemicals. NO_x pollution contributes to the formation of harmful smog and soot, exposure to which is linked to a number of respiratory and cardiovascular-related health effects as well as premature death. Children, older adults, people who are active outdoors (including outdoor workers), and people with heart or lung disease are particularly at risk for health effects related to smog or soot exposure. Nitrogen dioxide formed by NO_x emissions can aggravate respiratory diseases, particularly asthma, and may also contribute to asthma

development in children. Diesel engines, in particular, are responsible for large quantities of NO_x emissions in the United States.

4. The EPA has established maximum air pollution emission standards for various classes of motor vehicle engines, including diesel engines. In order to meet those required emissions standards, motor vehicle manufacturers employ various control systems in motor vehicles. For diesel-fueled motor vehicles, these emission control devices may include a Diesel-Particulate Filter (DPF), Exhaust Gas Recirculation (EGR), Diesel Oxidation Catalyst (DOC) and Selective Catalytic Reduction (SCR). Such components are controlled and calibrated by computer software that is incorporated into the vehicle's Engine Control Module (ECM).

5. Onboard Diagnostic Systems (OBDs) monitor emission control devices and detect, identify, and record any malfunctions of these devices. Pursuant to 42 U.S.C. § 7521(m)(1), the EPA was authorized to create regulations requiring manufacturers to install onboard diagnostic systems (OBD) on vehicles and engines to ensure that emission standards were met. The EPA has implemented regulations requiring their use on both light and heavy duty vehicles. If the OBD detects a

malfunction, it records a diagnostic trouble code and illuminates a malfunction indicator light (MIL) on the vehicle dashboard. The OBD and ECM may also prompt a driver to correct a problem by altering vehicle performance, such as putting the vehicle in "limp home mode," in which the vehicle can only be operated at low speeds. The purpose of the OBD is to work in tandem with emission-related engine hardware to ensure emissions controls are functioning appropriately.

6. Hardware emissions control devices and OBDs can be disabled on commercial vehicles bearing heavy-duty diesel engines through the use of aftermarket defeat devices. A defeat device is software or hardware that bypasses or renders inoperable the vehicle's emission control system. Motivations for this conduct include desires for greater engine performance by increasing a vehicle's horsepower and consequently racing and/or towing capacity; improved fuel efficiency at the cost of increased emissions; for novelty functions such as "rolling coal," -- in which a vehicle can be made to emit huge clouds of heavy particulate pollution; or simply to avoid required maintenance of vehicle emissions control devices.

7. The illegal tampering with and manipulation of emission

control systems is commonly known in the industry as "deletion."

8. The EPA Air Enforcement Division (AED) estimates that deletion can result in an increase of more than 40 times more air pollution emissions from a single diesel pickup truck. In fact, AED estimates that emissions controls were removed from more than 550,000 diesel pickup trucks in the last decade resulting in 570,000 tons of excess nitrogen oxides (NO_x) and 5,000 tons of excess particulate matter (PM) emissions over the lifetime of those vehicles.

9. Deletion often involves two aspects: the physical alteration of the engine related emissions control hardware and the software alteration of the code in the ECM, thus tampering with and rendering inaccurate the OBD. After the emission control hardware is physically removed, in order for the vehicle to remain operational without triggering MILs and/or "limp mode," the OBD must be altered by using "tuners," which are devices that carry electronic files/software coding ("tunes") designed to alter vehicle performance by changing and overriding the vehicle's original computer programming, tricking the OBD system and allowing the vehicle to continue to operate as if the emission controls were still functional. Tune files can be loaded into tuning devices and can

be saved to a computer's hard drive, a portable hard drive, or uploaded to a cloud server where it could be easily downloaded by a second party, and even emailed as an attachment.

B. The Defendant's Conduct

10. The defendant, **FROCK BROTHERS TRUCKING, INC.**, (“Frock”) is a long-distance trucking company located in New Oxford, Pennsylvania. According to its website, Frock delivers general freight and other products, such as snack foods, refrigerated items, or produce. Frock was founded by Ed Frock, who owned the company until his death in August 2022. Frock, and H.M. Kelly, Inc., contracted with Leon Martin, a mechanic who operated from his home in Lititz who disabled and/or removed emission control components, and tampered with the OBDs required under the CAA for the vehicles used throughout the United States, to delete factory installed emission controls from Frock’s heavy duty diesel trucks. Martin’s tunes enabled those deleted trucks to operate without emission control devices as required by federal law.

COUNT 1

12. From on or about November 13, 2018, through on or about December 28, 2018, in the Middle District of Pennsylvania, and

elsewhere, the defendant, **FROCK BROTHERS TRUCKING, INC.**, did intentionally and knowingly conspire with Leon Martin to tamper with, and render inaccurate, monitoring devices and methods required to be maintained under the Clean Air Act, that is, the onboard diagnostic systems of diesel trucks, belonging to **FROCK BROTHERS TRUCKING, INC.**, and H.M. Kelly, Inc., New Oxford, PA as listed below:

| VIN Number | Truck Year | Truck Make | Truck Model | |
|-------------------|---------------|---------------|----------------|----------|
| 1XKAD49X5EJ391748 | 2014 | Kenworth | T6 | 12/13/18 |
| 1XKAD49X3EJ391750 | 2014 | Kenworth | T6 | 12/5/18 |
| 1XKAD49X5EJ391751 | 2014 | Kenworth | T6 | 11/13/18 |
| 1XKAD49X0EJ391754 | 2014 | Kenworth | T6 | 11/26/18 |
| 1XKAD49X2EJ391755 | 2014 | Kenworth | T6 | 12/28/18 |
| 1XKAD49X6EJ391757 | 2014 | Kenworth | T6 | 12/28/18 |
| 1XKAD49X8EJ391758 | 2014 | Kenworth | T6 | 12/22/18 |
| 1XKAD49XXEJ391759 | 2014 | Kenworth | T6 | 12/20/18 |

In violation of Title 18, United States Code, Section 371, and Title 42, United States Code, Section 7413(c)(2)(C).

GERARD M. KARAM
United States Attorney



WILLIAM A. BEHE
Assistant United States Attorney

Date: September 19, 2024